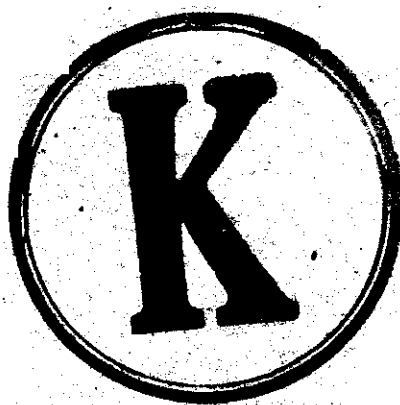


1951



File No

O/B. Civil Services
Rules/51

Legal Dept
G BRANCH

Subject:— Opinions on the
Bom. Civil Services Rules

CP/ 2/
(F)

File No.

O/B. Civil Services
Rules/51

Gen. 194 e.

59/51

C O N T E N T S

Legal Department File No. O.B.Civil Service Rules/51.

Sr.No.	R.I./O.No.	Subject.	Pages.
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Opinions under the Bombay Civil
Service Rules.

1. Q-453
26/9/51. Re: Suspension of Rationing
Inspector for accepting bribe.
Question is to how the suspension
period should be treated. 1-8.
2. Q-526
27-11-51. Question regarding fixing pay
and D.A. of Lorry drivers claim
for difference as the pay fixed
by the Collector was reduced
by Governmentk. 9-12.

JPR. 24/7/56. Sc.

5-31/5
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Legal Department.

Shri Kataria's removal from service was not as a result of the disciplinary inquiry held against him. He was under suspension from 25th May 1948 pending inquiry in respect of a complaint of alleged acceptance of illegal gratification and was reinstated in service by the order of the Controller of Rationing, dated 12th December 1949 as there was no conclusive proof of his having accepted illegal gratification and he had to be given the benefit of doubt. By the same order however Government informed him that his services would be terminated with effect from 15th January 1950 that means he was given a month's notice before termination. Shri Kataria had signed a service bond on 9th November 1944 under which he was told that his service was temporary and may be dispensed with at any time without notice and without assigning any reason. Below that bond Shri Mogre has signed for the Joint Secretary, Finance Department (Supply) (now Civil Supplies Department) and stated that the Temporary clerks were informed that while the appointing authority reserves to itself the right to dispense with their services at any time without assigning any reasons, a notice of termination of their employment will ordinarily be given to the extent possible. The termination of service in this case after a month's notice is not therefore dismissal from service and section 240 of the Government of India Act, 1935 would not apply to the case. It is therefore not necessary to see that the person ordering the termination should not be subordinate to the appointing authority. Under the same section a Government servant holds office during the pleasure of the Government. The Order can therefore be defended in

a Court of Law although it would have been better not to have issued both the orders in the same memo.

As regards difference between the subsistence allowance and pay, he is entitled to it only if he is honourably acquitted otherwise he may be granted such promotion of pay and allowance as the authorities might prescribe. (Cf. Rule 152 of the Bombay Civil Services Rules). In this case Shri Kataria was given benefit of doubt and it was decided not to treat his suspension period as period spent on duty. Shri Kataria has therefore no claim to the difference.

The suit, if filed would be defensible.

Id/-

Additional Secretary to Government.

U.R. to C. of R., No.G-453,

dated the 26th September 1951.

J.P.E./25.7.56. 4c.

JPE.25/7/56.4c.